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10/623,882

07/21/2003

Kouichi Miyamoto

AA-600

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27752 7590 04/18/2007  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.  
WINTON HILL BUSINESS CENTER - BOX 412  
6250 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

OSELE, MARK A

ART UNIT

PAPER NUMBER

1734

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|-----------|---------------|
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3 MONTHS

04/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/623,882

**Applicant(s)**

MIYAMOTO ET AL.

**Examiner**

Mark A. Osele

**Art Unit**

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Widlund in view of Justmann, French Patent Publication 2,810,537 (Brutin), and Jacobs et al. Widlund shows a method of forming a plurality of pairs of fastening members comprising the steps of: making a continuous fastening composite web comprising two longitudinally extending first substrates, 8, and a longitudinally extending second substrate, 11, therebetween; providing a longitudinally extending first fastening material, 12, adhered to the second substrate (Figs. 2, 3, 4); cutting the continuous fastening composite web along a single continuous cut line, 14, comprising a plurality of repeating patterns, each of the patterns extending from one panel region through the first fastening material to extend into the other panel region and returning to the one panel region again through the fastening material (Fig. 2); cutting each of the continuous fastening members across the panel region at a cut line, 15, 16, 17, 18, 19, thereby forming a plurality of pairs of fastening members, each fastening member comprising the base panel and the tab (Fig. 4). Widlund fails to show the two longitudinally first substrates to be laterally spacedly positioned.

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Justmann shows the composite web comprising two longitudinally extending first substrates, 74, 76, laterally spacedly positioned and a longitudinally extending second substrate, 34, therebetween (Figs. 3, 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to space the two longitudinally extending first substrates of Widlund as shown by Justmann because less material is used, thereby lowering cost. The references as combined fail to show the first fastening material to comprise two spaced fastening materials.

Brutin shows a method of forming a plurality of pairs of fastening members wherein a second substrate between a pair of first substrates has a pair of spaced longitudinally extending first fastening materials, 18, 19 (Page 5, line 34 to page 6, line 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the single fastening material of Widlund with the pair of spaced fastening materials of Brutin because the two methods are shown to be functional equivalents of each other for making pairs of fastening members. The references as combined fail to show a second fastening material at the gap region.

Jacobs et al. teaches that between a pair of spaced fastening materials, 30, 32, a second fastening material, 28, with a lowered density of fastening elements (column 7, line 41 to column 8, line 2) can be added to reduce the fastening strength of the fastening members at their outer edges (column 8, lines 3-23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the second fastening material with a lowered density of fastening elements as shown by Jacobs et al. onto the second substrate of method of the references as combined

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because Jacobs et al. shows this different fastening material can lower the bond strength at the edge of the resultant fastening members without lowering the bond strength of the fastening members to each other. This configuration has the advantage of making it easier for a user to grasp the edge region of the fastening member when it is desired to disconnect the fastening members.

Regarding claim 2, Justmann further shows the two first substrates are fabricated by slitting a single substrate web into two longitudinally substrates and spacing the two longitudinally extending first substrates (column 6, line 61 to column 7, line 19).

Regarding claim 3, it would have been obvious to one of ordinary skill in the art at the time the invention was made to slit a first fastening member and laterally spacing the two first fastening members because Justmann teaches that slitting and separating of single substrate can easily supply a pair of spaced longitudinally extending webs.

Regarding claims 4 and 6, Justmann shows the first fastening materials to be joined to the second substrate which comprises the gap region.

Regarding claim 7, the panel region of Justmann comprises the first substrate.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Widlund in view of Justmann, French Patent Publication 2,810,537 (Brutin), and Jacobs et al. as applied to claim 1 above, and further in view of Roessler et al. Roessler et al. shows a method of making fastening members wherein a stiffening material, 154, 156, is bonded to both the first and second substrates (column 23, lines 32-68) to provide for stress beam sections on the individual fastening members. It would have been obvious to one

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of ordinary skill in the art at the time the invention was made to connect the first fastening material of the references as combined in this orientation to the first substrate in order to provide for stress beams as taught by Roessler et al.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Widlund in view of Justmann, French Patent Publication 2,810,537 (Brutin), and Jacobs et al. as applied to claim 1 above, and further in view of Long et al. Long et al. shows a method of making fastening members wherein the second substrate has a higher stiffness than the first substrate in order to reduce undesired pop-opens (column 4, lines 24-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the second substrate of the references as combined with a higher stiffness than the first substrate because Long et al. teaches that this reduces undesired pop-opens.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Widlund in view of Justmann, French Patent Publication 2,810,537 (Brutin), and Jacobs et al. as applied to claim 1 above, and further in view of Melbye et al. Melbye et al. teaches that a second fastening material comprising an adhesive can be placed between spaced apart first fastening materials comprising mechanical fasteners (column 5, lines 11-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the second mechanical fastening material of the references as combined with an adhesive fastening material because Melbye et al. shows this to be a

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functionally equivalent alternate expedient to two different mechanical fastening materials.

### ***Response to Arguments***

6. Applicant's arguments filed March 21, 2007 have been fully considered but they are not persuasive. Applicants argue that the primary reference to Widlund does not disclose the limitations of claim 1 that the fastening web comprises two longitudinally extending first substrates and a longitudinally extending second substrate positioned between the two first substrates. Both the examiner and the applicants realize that Widlund does not show two first substrates *laterally spacedly positioned*. The examiner has modified Widlund with the secondary reference to Justmann which shows a fastening composite web with two longitudinally extending first substrates laterally spacedly positioned and a longitudinally extending second substrate therebetween. The applicants argue that Widlund does not provide any motivation or "suggestion of the desirability of modifying any of the materials disclosed therein by providing two first substrates and a second substrate connected together as recited in claim 1." A primary reference is not expected to provide any suggestion of the desirability of modifying the invention therein. Secondary references provide suggestion or motivation for modifying primary references. In this situation, Justmann shows the claimed connection of materials and, therefore, provides the suggestion for modifying Widlund. The motivation to modify Widlund by the suggested configuration of Justmann comes from the economic reality that less material used translates to lower cost of materials.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

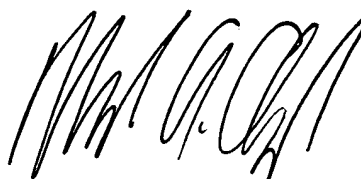
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Osele whose telephone number is 571-272-1235. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**MARK A. OSELE**  
**PRIMARY EXAMINER**

April 16, 2007